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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/830,441	06/11/2001	Mohammed Javed Absar	851663.424US	8038
7590	03/13/2006			
Seed Intellectual Property Law Group Suite 6300 701 Fifth Avenue Seattle, WA 98104-7092			EXAMINER FLANDERS, ANDREW C	
			ART UNIT 2644	PAPER NUMBER

DATE MAILED: 03/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

09/830,441

Applicant(s)

ABSAR ET AL.

Examiner

Andrew C. Flanders

Art Unit

2644

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 28 February 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See attached remarks.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____.
13. ☐ Other: _____.

DETAILED ACTION

Response to Arguments

Applicant's arguments filed 28 February 2006 have been fully considered but they are not persuasive.

Applicant alleges primarily that the Examiner's definition of precision is out of context of the relevant art. Examiner respectfully disagrees. The term precision is an extremely broad term that can have a number of meanings. For example, Merriam-Webster defines Precision as (see enclosed definition):

1 : the quality or state of being precise : EXACTNESS

2 a : the degree of refinement with which an operation is performed or a measurement stated -- compare ACCURACY

2b b : the accuracy (as in binary or decimal places) with which a number can be represented usually expressed in terms of the number of computer words available for representation <double precision arithmetic permits the representation of an expression by two computer words>

3 : RELEVANCE.

While Applicant generally discusses the definition given in 2b throughout the description of the preferred embodiment (also as shown in the Microsoft Computer Dictionary definition provided), the Examiner again respectfully submits that this is not the only possible meaning of the term.

For example, in the instant case, the Applicant submits that "...Paulos discloses a sampling rate converter that converts a digital signal having a first sampling rate to a digital signal having a second sampling rate. However, such a conversion of sampling rates does not imply a change in computation precision of arithmetic operations."

Examiner respectfully disagrees. It is submitted that the first and second sampling rates represent a degree of refinement with which an operation is performed as shown by the definition given in 2a by Merriam-Webster.

Additionally, it appears to the Examiner as though Applicant wants the term "precision" to be defined as shown in 2b. However, the portions of MPEP section 2111 cited by Applicant do not apply in this situation. The Examiner respectfully submits that the term precision is an extremely broad term and must be given its plain meaning as no clear definition is provided in the specification. Section 2111.01 of the MPEP states:

"This means that the words of the claims must be given their plain meaning unless applicant has provided a clear definition in the specification."

"One must bear in mind that, especially in nonchemical cases, the words in a claim are generally not limited in their meaning by what is shown or disclosed in the specification."

"It is only when the specification provides definitions for the terms appearing in the claims that the specification can be used in interpreting claim language."

"Interpretation of descriptive statements in a patent's written description is a difficult task, as an inherent tension exists as to whether a statement is a clear lexicographic definition or a description of a preferred embodiment.

It is respectfully submitted by the Examiner that the Applicant has not sufficiently defined the term precision for the purpose of the Application, rather the term appears in numerous embodiments. A somewhat typical definition of a term often appears at the beginning of the specification stating "For the purpose of the Application, the term ____ is defined as ____". The Examiner finds no such statement or similar statement within the specification. As such, the plain and ordinary meaning of the word is given and Applicant's arguments are not persuasive.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew C. Flanders whose telephone number is (571) 272-7516. The examiner can normally be reached on M-F 8:30 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sinh Tran can be reached on (571) 272-7546. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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SINH TRAN
SUPERVISORY PATENT EXAMINER